IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Bail Appl..No. 7733 of 2007()

CRIME 248/07 OF ADHUR POLICE STATION

PETITIONER/ACCUSED:

ABDUL KADHAR, AGED 32 YEARS,
S/O. ABDULLA, KUNDAM KUZHI, CHANKALA, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY SHO ADHUR POLICE STATION, REP. BY
PUBLIC PROSECUTOR, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7733 OF 2007

Dated this the 14th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 1st accused. Altogether there are four accused persons. Only the 1st accused is named. The alleged incident took place at about 9.40 p.m. on 29.11.07. In the FIR the petitioner is named. The allegations are raised for offences punishable, inter alia, under Sections 452 and 326 IPC. On account of prior animosity, the accused persons had allegedly trespassed into the house of the de facto complainant and indulged in wanton acts of false in mischief resulting in injuries including a fracture to the de facto complainant. Crime was registered. Investigation is in progress. Petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. False allegations are being raised against the petitioner. The petitioner may not be

forced to endure the trauma of arrest and incarceration. He may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the 1st accused is named. He alone has animosity against the de facto complainant. Others are miscreants which he had brought. The petitioner has to be interrogated thoroughly to ascertain the identity of the miscreants. At any rate, there are no circumstances justifying or warranting the invocation of extraordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioner, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must

appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

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